

STATE OF VERMONT
PUBLIC SERVICE BOARD

Order entered: 12/14/2006

**ORDER RE ENERGY EFFICIENCY UTILITY PARTICIPATION
IN ISO-NEW ENGLAND FORWARD CAPACITY MARKET**

I. INTRODUCTION

In this Order, the Public Service Board ("Board") concludes that the Energy Efficiency Utility ("EEU")¹ should participate in the ISO-NE Forward Capacity Market ("FCM"), including participation during the Transition Period to that market.² We further determine that Efficiency Vermont, through the contractor serving as Efficiency Vermont,³ should submit energy efficiency claims during the Transition Period and participate in the development and implementation of the Forward Capacity Market. Additionally, we decide that the City of Burlington Electric Department ("BED") should also participate in the FCM, including participation during the Transition Period, for the purpose of submitting claims associated with BED's Energy Efficiency Charge funded energy-efficiency programs. Finally, we establish a process for determining the proper disposition of any funds received from the Transition Period.

1. The EEU program is composed of several entities funded by the Energy Efficiency Charge ("EEC"). The City of Burlington Electric Department provides EEC-funded energy-efficiency services within its service territory. Efficiency Vermont provides EEC-funded energy-efficiency services in all other areas of Vermont. In addition, the Contract Administrator, the Fiscal Agent and the Department of Public Service's evaluation activities related to the EEU are funded through the EEC.

2. As described below, the Transition Period is a component of the FCM. Unless otherwise noted, the term FCM, as used in this Order, includes the Transition Period.

3. The contractor for Efficiency Vermont is chosen through a competitive bid process and holds a three-year contract with the Board to provide energy-efficiency services in all areas of the state except within the service territory of the City of Burlington Electric Department, which provides its own energy-efficiency programs. Vermont Energy Investment Corporation ("VEIC") is the current contractor for Efficiency Vermont.

II. BACKGROUND

In an attempt to address concerns regarding regional electric capacity, ISO-New England ("ISO-NE"), with approval from the Federal Energy Regulatory Commission, is currently developing an FCM that allows demand resources, such as energy efficiency, to be bid into the market on a comparable basis with supply resources such as generation. Since the commitment period for FCM resources will not begin until June, 2010, ISO-NE has developed rules for a Transition Period, starting in December, 2006, and extending through May 31, 2010. During this Transition Period, available capacity in New England, including demand resources such as energy efficiency, is eligible to receive capacity payments at a fixed price per kW established by the Transition Period rules. In the Transition Period, savings claims can be made for energy efficiency savings that have been obtained since June, 2006.

On September 28, 2006, the Board issued a memorandum asking interested persons for comments on whether VEIC, as the contractor currently serving as Efficiency Vermont, would be the appropriate entity to submit the necessary documentation to receive the capacity payments resulting from Efficiency Vermont's activities, and to receive the payments to use for the benefit of Vermont ratepayers. Additionally, the Board requested comments on the appropriate disposition of the transition payments.

III. SUMMARY OF COMMENTS RECEIVED

The Board received comments from several participants, as summarized below.

The Department of Public Service filed comments stating that VEIC is the most logical entity to participate in the FCM for the State with respect to claims for energy-efficiency savings because the FCM rules will likely require significant levels of measurement and verification to document program activity and program savings. The Department further recommends that the revenues collected through participation in the FCM be deposited in the EEU Fund managed by the Fiscal Agent with future energy-efficiency charges to be adjusted to reflect revenues received through this process, after compensating VEIC for its reasonable expenses associated with participating in and developing the FCM. Additionally, the Department contends that, to the extent that the measurement and verification process requires the Department to conduct

additional evaluation beyond that already undertaken under the EEU framework, any additional expense should be funded through the FCM revenue. Finally, the Department recommends that the Board convene a workshop to assess the overall efficacy of participating in the FCM once the FCM rules have been more fully developed.

Green Mountain Power Corporation ("GMP") and Central Vermont Public Service Corporation ("CVPS") filed joint comments stating that there are a number of entities that could participate in the FCM. GMP and CVPS recommend that the Board issue a request for proposals to identify the provider that could provide this service at the lowest cost. CVPS and GMP do not state a preference for the use of the funds, but do recommend that interested parties be allowed to comment on the use of such funds on an annual basis.

The Fourteen Municipal Utilities⁴ suggest that the Board consider one of the Vermont entities that currently participate in the ISO-NE markets for participation in the FCM. In the alternative, the Fourteen Municipal Utilities propose that the Board select a participant through a competitive bidding process. The Fourteen Municipal Utilities also recommend that any payments received through the FCM be allocated to the distribution utilities to reduce their costs of service.

BED notes that, under the current EEU structure, BED delivers energy-efficiency programs within its service territory. BED proposes that, therefore, it should be allowed to participate in the FCM directly with respect to those efficiency savings. (BED does not address whether VEIC should participate in the FCM with respect to energy savings achieved outside of BED's service territory.) BED further contends that retaining any FCM credits within the EEU Fund could result in unintended rate consequences for Vermont utilities. Specifically, BED states:

The market was structured on the presumption that any changes incurred by a utility could be offset by the payments the utility received for ODR [Other

4. The Fourteen Municipal Utilities include: Barton Village Inc. Electric Department; Village of Enosburg Falls Water & Light Department; Town of Hardwick Electric Department; Village of Hyde Park Electric Department; Village of Jacksonville Electric Company; Village of Johnson Water & Light Department; Village of Ludlow Electric Light Department; Village of Lyndonville Electric Department; Village of Morrisville Water & Light Department; Village of Northfield Electric Department; Village of Orleans Electric Department; Town of Readsboro Electric Light Department; Town of Stowe Electric Department; and Swanton Village Inc. Electric Department.

Demand Resources] and other resources, resulting in a net zero cost to any utility that self-supplied its market requirements. To the extent that Vermont chooses to divert the payments for ODR resources away from the utilities the FCM charge and payment streams will not match, which could result in an increased cost of service in the utilities' rate structures.

Despite this statement, BED concludes that, after weighing the potential uses of any incremental funds, "any ODR payments should accrue to the efficiency utility, and should be directly credited against the efficiency programs within the EEU budget that created the ODR payments."

Conservation Law Foundation ("CLF") and Vermont Public Interest Research Group ("VPIRG") jointly filed a letter supporting VEIC's participation in the FCM. CLF and VPIRG assert that VEIC has the expertise to perform the tasks and that to have another entity perform the tasks required would be redundant and inefficient. CLF and VPIRG further contend that any funds collected through the FCM and Transition Period should be used to increase the EEU budget. In support of this latter argument, CLF and VPIRG state that, in the recent Order increasing the EEU budget, the Board "recognized that an even higher level of funding is justified" but declined to implement a higher increase out of concern for rate impacts. CLF and VPIRG assert that the funds collected from the FCM and Transition Period represent a funding source with no rate impact.

IBM filed comments stating that it generally agrees to the EEU participation in the FCM. However, IBM states that it is important that current ISO-NE demand-response programs not be compromised by this proposal. IBM further requests that the Board conduct a workshop to ensure that all interested parties understand the program.

IV. DISCUSSION

There are currently two entities providing EEU energy-efficiency services: BED, within its service territory, and Efficiency Vermont (through a contract with VEIC) in the remainder of the State. The Board's September 28 memorandum did not request comments as to whether BED should be allowed to submit energy efficiency claims in the FCM, because BED is a legal entity that is a NEPOOL member and thus able to directly participate in the FCM. However, Efficiency Vermont is not a legal entity but rather functions through contractors selected by the Board.

Some of the comments suggest that the Board issue a request for proposals to choose an entity to submit a claim or appoint one of the electric distribution utilities that is currently a NEPOOL member to submit the savings claim. We decline to take such action for two reasons: it is administratively more efficient for Efficiency Vermont to submit claims, and having Efficiency Vermont participate in the NEPOOL process ensures that Vermont supports energy efficiency as a resource on par with generation and transmission resources. These reasons are further outlined below.

The FCM requires that any submission of a savings claim by energy-efficiency providers be accompanied by a Measurement and Verification Plan. Under the current EEU system, Efficiency Vermont is required to compile information regarding the energy-efficiency savings resulting from its activities.⁵ This includes most of the information required to submit a savings claim.⁶ Since Efficiency Vermont already compiles most of the required information, it is in the best position to submit savings claims. It would be administratively inefficient for Efficiency Vermont to develop the necessary information then turn such information over to a separate entity that would then submit the savings claims. The Board currently has a contract with VEIC to act as Efficiency Vermont; an amendment to the existing contract would be all that is required to allow VEIC to submit claims for the savings that it achieves as Efficiency Vermont during the Transition Period.⁷

The Vermont General Assembly has clearly stated that it is state policy to seek the inclusion of energy efficiency in the regional consideration of system reliability improvements.⁸ Participation by Efficiency Vermont in the FCM, a mechanism designed to ensure an adequate supply of capacity within the region, is consistent with and advances this policy. By amending its contract to allow VEIC to become a member of NEPOOL, Vermont would be represented in

5. The Department then analyzes and verifies the savings claims submitted by Efficiency Vermont.

6. Efficiency Vermont would need to make some minor modifications to its tracking systems to meet ISO-NE requirements.

7. Further contract amendments are likely to be required once the rules for the Forward Capacity Auctions are finalized.

8. Public Act 61, § 8, (2005 Vt. Bien.).

the development of the FCM Rules by the entity that currently implements energy-efficiency programs in Vermont and that would promote consistency with the principles of the statewide energy-efficiency program.

The Board is currently negotiating an amendment to its contract with VEIC to address several issues that arose from Act 61 (including the increase in the EEU budget and the exemption from the energy efficiency charge). The Board will include in that amendment provisions regarding VEIC's proper role in participating in ISO-NE and NEPOOL and its role in submitting savings claims during the transition to the FCM. We recognize that there are possible complications that could arise if the final FCM rules require participants to incur obligations that extend beyond the contract term for the Efficiency Vermont contractor. We will request further comments on this issue once the FCM rules are finalized.

The Board has determined that the money collected through the Transition Period and the FCM, by both Efficiency Vermont and BED, will be deposited in the account maintained by the EEU Fiscal Agent. The money collected will be used to offset the administrative costs incurred by Efficiency Vermont and BED from their participation in the FCM and Transition Period. Any incremental funds will be held until the Board makes a determination as to the proper disposition of these funds. Due to the cumulative nature of the Transition Period mechanism, it is expected that these incremental funds would not be a significant amount until 2008. However, the Board and the Department will be kept apprised of the exact amount of these funds through regular reports from the EEU Contract Administrator. The Board will request comments by late 2007 regarding how these funds should be allocated. Additionally, we determine that it is appropriate for the Department to recoup any incremental expenses associated with its increased monitoring and evaluation efforts associated with the FCM through the FCM payments.

With respect to BED's concerns regarding the cost stream, the Board notes that, due to the EEU's efforts, the utilities (and ratepayers) are already receiving the benefit of reduced spending to purchase capacity due to the efforts of the EEU. With Efficiency Vermont's participation in the FCM, the EEU is obtaining money on behalf of Vermont's ratepayers that reflect the investments made in energy efficiency. In addition, as noted earlier, the Board will make a determination at a future date as to the appropriate disposition of the incremental funds. The

guiding principle when we make this decision will be to ensure that the use of the funds benefits ratepayers.

Turning to IBM's concern regarding the impact of Efficiency Vermont's participation in the FCM, we note that this Order addresses only the role of Vermont's EEU in an ISO-NE program. This Order does not affect any other entity's participation in load response, or other, ISO-NE programs.

Finally, we clarify an important procedural consideration. In order for any savings claim to be made, it must be clear that the entity making such a claim for the programs operated by Efficiency Vermont and BED is the appropriate entity. Pursuant to the FCM Transition Period Rules, approved by the Federal Energy Regulatory Commission, the only projects that are eligible for the submission of claims during the Transition Period are those "installations undertaken as part of merchant, utility, or state-sponsored programs."⁹ Consequently, Efficiency Vermont and BED are the appropriate entities in Vermont to submit claims for energy efficiency savings associated with EEC-funded programs under the Transition Period Rules.¹⁰ To ensure clarity in the future, the Board will require Efficiency Vermont and BED to clearly state in any service contracts that ownership of any savings claims will be retained by Efficiency Vermont and BED to be used for the benefit of Vermont ratepayers.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The Efficiency Vermont contractor (currently Vermont Energy Investment Corporation) shall participate in ISO-New England Forward Capacity Market and Transition Period on behalf of Vermont ratepayers to submit claims for energy efficiency savings that result from Efficiency Vermont's energy efficiency programs

9. ISO-NE Transition Period Rules, § III.8.3.6.2.

10. Independently, because the EEU provides financial incentives and expert advice funded by all ratepayers, the Board finds that it is appropriate for the EEU, through Efficiency Vermont and BED, to submit these claims for the savings achieved through the Efficiency Vermont and BED programs.

and shall become a member of NEPOOL to negotiate the final rules of the Forward Capacity Market.

2. The City of Burlington Electric Department may submit claims for energy efficiency savings that result from BED's energy efficiency programs within its service territory in the Transition Period and Forward Capacity Market.
3. The Efficiency Vermont contractor, City of Burlington Electric Department, and the Department of Public Service shall be compensated for the reasonable costs incurred to participate in the Forward Capacity Market and Transition Period.
3. The Board will request comments at a future date regarding the disposition of any incremental funds arising from the Transition Period.

Dated at Montpelier, Vermont, this 14th day of December, 2006.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: December 14, 2006

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)